

CIVIL RESPONSIBILITY AND DANGEROUS ACTIVITIES FROM THE NONCONTRACTUAL DAMAGE

Sevdai Morina, PhD

Lecturer, Gjilani College – Gjilan

Legal Officer, Kamenica Municipality

PhD candidate, Doctoral School – European University of Tirana

Abstract

Apart from the subjective responsibility on causing damage and its compensation there exist also the objective responsibility, respectively responsibility for goods for dangerous activities. This type of responsibility is connected with the XX Century with the appearance of new technical discoveries, discoveries of new and complicated machines and with the massive development of technic perfection in the land, water and the air traffic. As a consequence of this, damages are more frequent and always bigger. From these suffer persons that are in direct contact with these means (workers) and also third persons and surroundings that are surrounded by these means. These damages are the consequences of the rapid technologic development. Regarding the subjective responsibility rules of responsibility on guilt are applied in the cases of cause of damage because of personal activities, whereas objective responsibility on these damages, responsible cannot be considered person that committed the act as well as the person that suffered damage. From this it is seen that the rules on responsibility on damage should not be based on guilt. Therefore in the case of damage causing from the dangerous goods, the damage should be verified and the also the causal link between damage and the dangerous goods (pests). In these situations it is not necessary to conclude and to verify the guilt of pest. This responsibility in the other way is called the responsibility without guilt, responsibility on dangerous goods and dangerous activity or as responsibility based upon the theory of causality. Thus, also for this responsibility from dangerous goods, is named also as the responsibility without guilt.

Keywords: Subjective, objective, responsibility, good, activity

Introduction

Apart from the subjective responsibility for causing damage and its compensation there exists objective responsibility, respectively responsibility for goods and dangerous activities. Objective responsibility is civil responsibility of the modern times. It is usually said that this responsibility has its roots in the civilized technic development. Related and/or also for this doctrine this responsibility as institutionalized is developed from XIX Century. However the beginnings of this responsibility are found in the roman law – in the classic period of roman law. Even in the Iustinian law there are found some cases of objective responsibility because the possessor of wild or domesticated animal, possessor of the building that could be ruined could be responsible and sentenced itself from the fact that the damage was caused, without taking into the consideration who was the guilt person. Thus, this type of responsibility is linked with the XIX Century by the appearance of new technic discoveries, discovery of new and complicated machines and by the development of massive technic perfection in the land, water and air traffic. As a consequence of this, damages are more frequent and already bigger. From there suffer persons that come directly into the contacts with these means (workers) and the third persons as well as the surroundings. These damages are the consequence of massive technological development.

Related to the subjective responsibility, rules of responsibility on guilt were applied in the case of causing damage by personal activities, whereas to the objective responsibility for these damages it could not be considered guilty the person that conducts such activity and not the person injured, as well. From this it is seen that the rules on responsibility for damage should not be based in damage. Therefore in case of causing damage from the dangerous goods, it should be verified the damage and causal connection between person and the dangerous goods (pests). In these situations it is not necessary to conclude and to verify the guilt of pest. Thus also based on this responsibility for dangerous goods is called responsibility without guilt.

Objective responsibility for goods and dangerous activities

Responsibility based on guilt has survived for ages. However, social development especially in the field of industry and agriculture has determined broadening the responsibility for damage for both: contractual relationships and the noncontractual relationships. This broadening has led towards determined conditions, so the person to be hold responsible for the caused damage without his guilt. In theory, this type of responsibility is

called appliance of objective responsibility in the right or without guilt.¹²¹ Objective responsibility is a type of delinquent civil responsibility which is based on the fact of caused damage from the dangerous goods and from the dangerous activities. This responsibility otherwise is known as the responsibility without guilt; responsibility for the dangerous goods and dangerous activities or the responsibility that is based on the theory of causality.

Damage could be caused in different ways: *by people's activities*, the damage causing happens as a consequence of demonstrations, strikes and other disorders in society. Damage causing happens also from dangerous activities as: damage causing in mine, in construction, in traffic, etc. The damage causing could also happen by the activities of people by acting or nonacting. By active activity damage is caused when subject undertakes determined activities (commission) for example: breaks the house glass, whereas with the passive activity the damage is cause when the subject doesn't undertake the determined activity (ommissio). *Damage causing from goods* involves all cases of damage causing from determined goods which represent added risk for a determined social environment, e.g. damage causing from toxics, gas explosion, electricity, etc.¹²²

The resource of risk in this responsibility presents the dangerous goods and the dangerous activity. In the article 154 of LMD of the Republic of Kosovo it is stated, "damage caused with the dangerous goods respectively by the dangerous activities is considered to derive from this goods respectively from this activity, except if it is proved that they were not the cause of damage". Regarding responsibility from exercising the dangerous activities the Albanian Civil Code in the article 622 states that "*person that commits dangerous activities from its nature or from the nature of used goods and that causes damage to other persons, is obliged to compensate damage, except if he proves that he has used all adequate and necessary measures to avoid damage*".

If damage is caused from the dangerous goods, the injured person shall verify only damage from which suffered and that the damage was caused from the dangerous goods. He is not obliged to verify guilt of the responsible person.¹²³ Thus responsibility for damage from the dangerous goods is responsibility without guilt-this is objective responsibility.

¹²¹ R. Gjata, (2010), Detyrimet Jashtëkontraktore: (Non Contractual Penalties) "Muza", Tiranë, fq 82.

¹²² S. Morina, (2014), Baza e përgjegjësisë deliktore civile të shkaktimi i dëmit (Basis of Delinquent Responsibility for Causing Damage) ,: Vizione, Nr.22(1), Shkup, fq,113.

¹²³ Lj. Milosevic, (1977), E Drejta e Detyrimeve, Pjesa e Përgjithshme (Obligatory Law), : Prishtinë, fq,156.

Dangerous item (goods)¹²⁴ is considered every mobile and immobile item, which according to the position of use or according to attributes it has, presents dangerousness for social circle. Therefore it should be supervised very carefully. Some goods are dangerous based in their position they keep themselves, e.g. flowerpot in the balcony is dangerous item, because if it falls down it could cause damages or it could injure someone. Whereas dangerous activity for social surrounding is open channel in the street.¹²⁵ Some goods are dangerous from their content, e.g. poisons, atomic energy, electricity, etc. Some goods are dangerous when they are put in the use, e.g. motoric means when put in function presents dangerousness for the surroundings. It is also electricity when conducted in circulation. Dangerous activity is the activity from which the dangerousness is created and it is the resource of added dangerousness. Dangerous activities are: construction, railway traffic, land, water and air traffic, activities in the hydropower, etc. Dangerousness for social environment in addition presents organization of meetings in the closed premisses, then destruction of determined object, item with shortages in productions, etc. For the caused damage from the dangerous goods and from the dangerous activities, the responsibility for reward is created. The basis of responsibility is without guilt because here it should verify that the damage exists, causal connections and the unlawful action about the responsibility for the caused damage from these goods.¹²⁶

Responsible subject on the caused damage by dangerous goods and activities

For the caused damage from dangerous goods or from dangerous activities the determined subjects are hold responsible. E.g. LMD, in article 155 underlines: "for the caused damage from the dangerous goods responsible is its possessor, whereas for the caused damage from the dangerous activity responsible is the person that deals with that". Possessor is considered the possessor of goods as well as the social judicial person that has the right to possess respectively the right of temporarily use it. Thus by this we understand that in case of damage causing from the dangerous goods, responsible is considered the owner of dangerous goods, whereas for damages caused by the dangerous activity responsible is the person that deals

¹²⁴ Item in the formal judicial civil meaning is part of material nature that could be noted by sense, that is limited in space and that physically exists as well as that could be object of any subjective right or according Austrian Civil Code "everything that is not human, and whereas serves for the needs of people-is called item". (See more, A. ALIU , (2004). E Drejta Sendore: Prishtinë).

¹²⁵ N. Dauti. (2008). E Drejta e Detyrimeve (Obligatory Law), Pjesa e Përgjithshme: Prishtinë, fq,168.

¹²⁶ Po aty, fq,168-169

with the dangerous activity. If the dangerous item is in the co-ownership¹²⁷ of two or more subjects then they are solidar in the responsibility. There are cases when owner can give to someone the item under the possession¹²⁸ to any oter subject and the damage could be caused during the time when the dangerous item was under the possession of the other person. Here we see two situations:

- 1) When item is given to serving person to the owner of dangerous item and
- 2) When item is given to a subject that is not serving him.¹²⁹

In the first case, when damage is caused from the dangerous goods while goods are under the possession of the serving person¹³⁰ for dangerous owner, in this case for this damage according to the responsibility without guilt, responsible will be the owner of dangerous item.

In the second case, when the dangerous item is given to a person that is not serving him, where he can use it temporarily based on the contract with or without reward, for the damage responsible is subject that holds the item and not the owner. Thus, e.g. lessee, buyer of dangerous goods, service receipient, are responsible for the caused damage from the dangerous goods similarly to the owner of these goods, because they use these goods for their benefit. The owner of dangerous goods will not be responsible any more because goods are not under his control.

Basis of responsibility for caused damage from the dangerous goods and activities

In the responsibility for damage caused by the dangerous goods, basis of the responsibility is not the guilt becasue the responsibility is without guilt and thus it is known as objective responsibility. There exist variuos opinions about the basis of this responsibility.¹³¹

¹²⁷ Co-ownership is judicial institute when two or more persons have the property right over an item – each according to participation. So, in the law it is possible that an item individually determined to be object of two or more persons, respectively to have more subject with th eproperty rights over it, that could be presented in form of co-ownership or in form of joint property. (see more A. Aliu (2004). E Drejta Sendore (Property Law)-Pronësia: Prishtinë ,faqe 89).

¹²⁸ Possession understands only the right of use and exploitation of goods and not the right of destruction, so it understands only factic power over th eitem and not the judicial power. Thus, possession is not understood as the real right and it is only understood as factic power (economic) over th eitem.

¹²⁹ N. Dauti. (2008), E Drejta e Detyrimeve, Pjesa e Përgjithshme: Prishtinë, fq, 169.

¹³⁰ With the subject in serving we should understand each subject that established working relationship with the economic enterprise or with the owner of the business.

¹³¹ N. Dauti, (2008), E Drejta e Detyrimeve (Obligatory Law), Pjesa e Përgjithshme: Prishtinë, fq, 170.

The oldest opinion that holds up the basis of this responsibility in the idea of causality. According to this opinion the owner of dangerous goods shall be responsible for every damage that will have the causality relationship over the dangerous goods.

Other opinion has to do with the French judicial theory that represents the idea of dangerousness on the basis of responsibility for dangerous goods. According to this opinion dangerousness is understood as the dangerousness economic benefit, because the subject that uses the dangerous item realises economic benefit therefore it is justifiable to hold also consequences that will be created by the use of that item.

Third opinion appears in the German judicial theory based on which the basis of objective responsibility is hold up in the idea of interest. According to this theory every subject is obliged to reward damage which is caused by realising any personal interest.

Basis of responsibility for the caused damage from the dangerous goods should hold up in the created dangerousness because the owner of the dangerous goods has the benefits from the use of these goods, therefore he should carry consequences from the dangerous activities. The main argument of this responsibility is the fact that this is responsibility without guilt - thus here we talk for the case when one is hold responsible without verifying his guilt. Here it is important the reward is exercised which is achieved by this responsibility. In the cases of caused damages by dangerous goods and activities often happens that the guilt cannot be verified or it happens that there are no proves found, e.g.damages caused in traffic. There are cases where there is no guilt for any one, and therefore there are circumstances created when injured has no possibility to realize reward. Thus in these cases in order to realise the reward the most suitable theory is objective responsibility.

Treatment of some cases of responsibility from dangerous goods and activities

In the modern world damages from the dangerous goods and activities are more and more frequent. Today, at the level of development that the mankind has achieved it could not remain unforeseen with the judicial norms the objective responsibility, even not in the not developed ends and countries.¹³² When we talk about the responsibility for the caused damage from dangerous goods and activities the judicial science at this field usually treats also special cases of this responsibility, where most frequent are damages caused from:

¹³² Rr. Gjata, (2010), Detyrimet Jashtëkontraktore (Non Contractual Obligations),:”Muza”, Tiranë, fq, 101.

Responsibility for the damages caused by industrial organizations, buildings and construction places

At the present times a big number of damages are caused in the various industrial enterprises, in the construction places (construction of buildings, bridges, roads, etc), mines, factories, etc. Industrial and construction enterprises deal with the dangerous activities, which may cause big damages to persons and to their property. For each damage that will be caused within the activities of the industrial - construction organization, that organization will be responsible according to the rules about the responsibility from the dangerous goods, respectively according to the basis of the objective responsibility.

Buildings from the fact of their existence themselves present dangerousness for the environment and thus they should be supervised carefully, because damage could be caused from them as well. This case of responsibility for the caused damage from the buildings is one of the specific cases of the responsibility from dangerous goods. As we know construction deals with building, broadening and reconstruction of objects that serve to various needs. According to the types there are: high construction, low construction, maintenance of the objects connected to the residence buildings, factories buildings, hospitals, schools, roads, bridges, channels, etc. In the construction there are also done specialized jobs as mounting, isolations, ruining, etc. Usually in these situations damage is caused when the building is ruined partly or totally or in some other ways as presenting mistakes in construction, when the object has shortcomings, etc. These are presented as dangerous goods and the basis is objective responsibility (without guilt). For caused damage from buildings responsible is owner, possessor or user of building or residence.

Owners of buildings or their builders are responsible for damages caused to tenants from the shortcomings in the quality of work. E.g. if a building suffers partial ruining as a result of weak earthquake, builder or owner that sold flats to tenants then builder or owner should be hold responsible for every damage caused from the earthquake. In cases when the building is in the process of being build the construction company is responsible if damage is caused to passers by or to the other persons. E.g. a plank is seceded from the scaffold and thus hits a person that is walking in the street.¹³³

According to these rules the other organizations that deal with other activities that present dangerousness for the environment will be responsible, e.g. organizations the exploit petroleum, agriculture organizations and other

¹³³ M. Tutulani,(2010), Shkaktimi i dëmit dhe Kontrata (Causing Damage and the Contract), Njohuri për Ligjin (Knowledge about Law) : Horizont, Tiranë, faqe,143.

individuals (electricity workers, mechanic, etc). When the organizations that deal with the exploitations of petroleum are mentioned we should take into the account the entire activity of petroleum exploitation, processing and distribution. Whereas organizations that deal with the production of agriculture products, there should be stressed out agriculture machines when dealing with production and trade as well as those that develop their activity on saving industrial plants from various illnesses.¹³⁴

Responsibility for damage caused in traffic

With traffic we understand activity which deals with transport of people and goods from a place to the other. In the public traffic during the past but also at the present modern time there were often caused various damages. Today the biggest number of damages is caused in traffic: in the railway, water, automobile and air transport.

In the railway traffic in various accidents damage could be caused to passengers and to the third persons. For damage that is caused to passengers in the railway traffic, railway transport enterprises are responsible according to the objective responsibility – responsibility without guilt. This responsibility is created from the moment when the passenger came at the station of departure up to the exit from the station of destination.¹³⁵ Based on this we understand that the railway transport organization would be responsible for passenger at the same time for the damage passenger has suffered before entering in the train as well as for the time passenger was staying at the train station. Passenger is considered every person that has come to the train station in order to travel no matter if he possesses train travel ticket whereas passenger is not considered person which exercises official function regarding railway activities.

Similarly with the railway to the automobile transport – responsibility is with no guilt – objective. Motor means as cars, are dangerous goods, whereas the activities developed by these means are dangerous. As it is known car is dangerous good only when it is in used respectively when put in the move, whereas when it is parked it is not considered dangerous. Organization that deals with the public services is responsible for the damage caused to passengers and to the third persons. Damage could be material and nonmaterial.

In the water traffic, there also exist cases of damage caused along with the responsibility for that damage. Here as water traffic we consider traffic in the lakes, rivers, seas and oceans. For damage caused in the water

¹³⁴ A. Alishani, (1985), E Drejta e Detyrimeve (Obligatory Law), Pjesa e Përgjithshme: ETMM, Prishtinë, fq, 706.

¹³⁵ Lj. Milosevic, (1977), E Drejta e Detyrimeve (Obligatory Law), Pjesa e Përgjithshme: Prishtinë, fq, 187.

traffic there exist the responsibility according to the responsibility over the dangerous goods except for the sea traffic where there are exclusions from the application of these rules where the seafaring for the damages to death and body injure of passenger as a reason of ship overturn, explosion, will be responsible according to the supposed responsibility of guilt.¹³⁶

For damage caused in the *air* transport caused to the workers and to the third persons, responsible is enterprise of air traffic according to the rules from the dangerous goods. Thus means for the air traffic are considered dangerous if they are on the wing or if they are on the runway ready to set off. Here the responsibility is roughening so responsibility is give also for *vis maior*.¹³⁷

For damage that suffer passengers and the third persons in the public transport there exist the obliged insurance, so to the injured persons the way of getting reward is made easier. They may realize reward based on the insurance basis or based on the responsibility for the damage from the dangerous goods but not any time from both basis.

Responsibility for the caused damage from swept from buildings, dumping and discharge from buildings

Damage can be caused from swept, dumping or discharge. Therefore such cases are not rare when the damage is caused in this way. These cases happen more often in the buildings being constructed or in the buildings where people live. E.g. damage is caused when the flowerpot falls from the balcony, when something is thrown from the building and injures a passers by or when someone pours water by which defiles the clothes of the other person. Therefore in these cases and similar to these it o understood that the damage is caused. Basis of responsibility for these cases is objective, because we have to do with the goods respectively with the dangerous activities.

For damage caused from buildings responsible is possessor or user of building with the exception of the case when the damage is caused from *vis maior* or with the guilt of injured or the third person. But in the cases when the direction of the fall and dump of goods cannot be verified (owner or possessor) for the damage there will be responsible in solidarity way possessors of flats of the building.¹³⁸

¹³⁶ N. Dauti. (2008), E Drejta e Detyrimeve (Obligatory Law), Pjesa e Përgjithshme: Prishtinë, fq, 172.

¹³⁷ Lj. Milosevic, (1977), E Drejta e Detyrimeve(Obligatory Law) ,Pjesa e Përgjithshme: Prishtinë, fq, 189.

¹³⁸ N. Dauti. (2008), E Drejta e Detyrimeve (Obligatory Law), Pjesa e Përgjithshme: Prishtinë, fq, 173.

Responsibility for damages caused from animals (*damnum per animal*)

This is a special case of responsibility for dangerous goods. It often happens that animals damage property or physic integrity of humans. Regarding law, judicial theory and practice are not unique in the attitudes regarding responsibility – whether it should be on the basis of guilt or without guilt - when the damage is caused from animal. Basis of responsibility for this case are not unique, however it is an opinion dominating: for damages caused from animals we should use the rules of responsibility for dangerous goods, and this means that we should use rules of objective responsibility (without guilt). Responsibility for damages from animals cannot be subjective because there could not be fulfilled all conditions of civil delinquent responsibility and this because it doesn't exists to animals, so delinquent ability is absent. German, Austrian and French Civil Code as a basis of responsibility consider supposed guilt whereas some civil codes as the basis of responsibility foresee objective responsibility e.g. Hungarian Civil Code. Albanian Civil Code for damage caused from animals with article 621 foresees: “owner of an animal or owner that uses it is responsible for the caused damage, except when he proves that he had the control over the animal behavior that caused damage but he couldn't remove it”. Thus for damages caused from animals owner is responsible according to article 621 of Civil Code. If an animal is given to the other for use under rent, usufruct or in any other judicial form, if the damage is caused then responsibility belongs to owner or to user of animal. This responsibility is conditional. If owner or user manages to prove that he had undertaken all measures to have the animal under control, then he will not be responsible for rewarding damage.¹³⁹ But regarding responsibility for activities of goods and activities of animals, jurisprudence has lied rules of responsibility for goods and animals as well. Such rules foresee that which is called presumption of responsibility or total legal responsibility and not simply a guilt presumption, that means that keeper of goods or animals cannot escape from responsibility by trying to prove that he has not committed any guilt.¹⁴⁰ For damage caused from animals, responsible is owner or possessor of the animal. For damage caused in the zoo park responsible is supervisor of the animal or the municipality where the zoo park is located. If animal is given to be saved or kept and then the damage is caused, in that case responsible is user. But if this animal had any vice which was not known by the user, then for the damage responsible is held owner. When damage is caused form the wild animal in the controlled forest, the responsible for damage is enterprise

¹³⁹ M. Tutulani- Semini, (2006). E drejta e detyrimeve dhe e kontratave (Obligatory and Contract Law0, Pjesa e përgjithsme: Real- Stamp,Tiranë, fq,260.

¹⁴⁰ G. Legier, E drejta civile-Detyrimet (Civil Law-Obligations), Papirus, Tiranë, 2008, fq.141

that deals with the protection of forests, whereas outside of controlled forests there are no responsibilities.¹⁴¹ In order to talk about the responsibility regarding the damage caused from animal, firstly the damage should exist, then the damage should be caused from the animal and that the damage should not be caused from the wild animal that is not in the controlled forest.¹⁴²

Existence of damage is essential for this responsibility. In this field there no rarely we see cases of damages caused from animals. This damage could be material as well as moral damage. This is for example when someone is injured, when to someone corn is damaged, or when someone suffers fear of determined intensity (horrify, horror or temporarily scare) form the animal or as a reason of caused damage, the determined person suffers psychic suffering. In the court practice there are many cases of damages caused by various animals. Thus, e.g. when roe jumps in a motor vehicle and thus damages it then for this damage responsible is enterprise which is obliged to control forest. Thus for this it is said that for damage caused from the protected animal during the time when the hunting is prohibited then responsible is the association that supervises the hunting zone. So, in order to exist this responsibility damage should be caused from animal and that both and similarly: from animal or from wild protected animal.

5.5. Responsibility for caused damage during demonstrations or public events

Regarding responsibility for damage caused during the public events LMD with the article 161 regulates expressively as follows: “state or person that was obliged to prevent this according the disposals in force, is responsible for damages from the death or physic injury as the consequence of terrorism, demonstrations or public manifestations”. It is also article 162 of LMD where it is said:”Organization of meeting of a big number of people in closed environment or open, responsible for caused damage with death or physic injury that someone suffers due to the extraordinary situation and that can be created in such situations as rolling mass, total disorders”. According to these disposals from LMD for caused damage in this case responsible is organizer of public manifestation. So, organizer of meeting in closed

¹⁴¹ N.Dauti. (2008), E Drejta e Detyrimeve (Obligatory Law), Pjesa e Përgjithshme: Prishtinë, fq, 174

¹⁴² A. Alishani (1985), E Drejta e Detyrimeve (Obligatory Law), Pjesa e Përgjithshme: ETMM, Prishtinë, fq, 712.

environment or in determined spaces is responsible for caused damage from such meetings.¹⁴³

Basis of responsibility for caused damage is objective, because mass presents determined risk for determined environment. Injured person has the right to require damage compensation from organizer if injury hit physic integrity. Injury should be caused in the place where people got gathered, gathering should be organized by the organizer, it should be caused in the extraordinary circumstances. In this case of responsibility the damage is claimed for both: participants and the third persons. Thus to the injured physic injury of death should be caused. Damage should be caused in the place where the meeting was organized or in the environment of that organization.¹⁴⁴

As organizers of public manifestations could be different sport clubs, various amatory associations and music, theatre, cinemas, etc. Damage in these situations is caused as consequence of thrust and sprain of people due to the big mass of people that gathered.

Responsibility for the caused damage from not giving necessary assistance

It is a duty for every person to offer help, which is necessary for the life of people and the health of a subject in danger. Giving help in these cases is a necessary and human duty. This means that a human according to the normal possibilities should offer help to the other – thus offering help to someone that needs it, e.g. injured person, lost person, abandoned child from his mother, etc. These cases and others are similarly moral and legal for a society.

LMD in the article 166, paragraph 1,2 has foreseen this type of responsibility. Therefore there it is said:”a person that without being in danger for himself refuses to give help to a person whose life or health is in danger, openly is responsible for damage that appeared from this if he according to the circumstances of case should have foreseen. If required from justice, court could take into account the compensation reward”. From the interpretation of these disposals of LMD we could say that in this case of responsibility legal basis is omission (omissio) of injured. His objective responsibility is objective because he did not take part in damage causing and even he didn’t cause damage to the subject in danger.

¹⁴³ R. Smaka, (2008), E Drejta Biznesore(Business Law): Universiteti Mbretëror ILIRIA, Prishtinë, fq, 31.

¹⁴⁴ A. Alishani. (1985), E Drejta e Detyrimeve (Obligatory Law), Pjesa e Përgjithshme: ETMM, Prishtinë, fq, 719.

Responsibility regarding working or the public interest

Some economic activities should be exercised regularly and nonstop because they are important for functioning of entire social life and therefore are known/called companies of public character.¹⁴⁵ Due to this LMMD in article 168 has foreseen as: "organizations that exercise communal activities or any similar activity of public interest are responsible for damage if with no reasonable reason stop or do not regularly exercise regularly their services".

Such organizations are: organizations that deal with maintenance of public roads, resident buildings, organizations for water supply, organizations for electricity supply, etc. To these organizations that develop these activities, firstly damage should be caused, damage is caused with no reasonable interruption of exercising services and when organization refuses to exercise these services and only after these we can talk about the responsibility for caused damage of these organizations.

By fulfilling of these conditions, enterprises that exercise duties of public interest are responsible for the caused damage. Consequences of such behavior are various and heavy, because exercising of these activities depends on productivity, the life of modern people, their health and finally the development of the entire society.

Conclusion

From what was discussed above regarding objective responsibility for the caused damage, we could say that the civil delinquent responsibility comes into the consideration also to objective responsibility. Such a conclusion we justify with the fact that the objective responsibility is responsibility that starts from the fact that damage means that regarding this type of responsibility there is no need to verify the guilt of owner, the guilt of possessor, the guilt of user of the dangerous goods, with what the damage was caused. Therefore this responsibility is called responsibility without guilt, and as such it is known also in our law and the comparative law, as well.

Objective responsibility or differently said responsibility without guilt is responsibility for dangerous goods or for dangerous activities because these goods and various activities often in everyday life cause big damages, there are caused damaged events where quite often their real cause remains unknown.

In treated cases with this paper we saw that in land, air and water traffic often the life of people is put in danger, there are caused big damages

¹⁴⁵ N. Dauti. (2008), E Drejta e Detyrimeve (Obligatory Law), Pjesa e Përgjithshme: Prishtinë, fq, 177-178.

which have to be rewarded. Industrialization, mechanization, atomic energy in favor of progress and defense, are facts that prove that humans are surrounded with a lots of potential dangers with the possibilities of causing damages under these circumstances, both: for the life of human and for the properties in general. Thus, in these cases and in the others it is natural that for the caused damage responsible is to be person that has put in propel the dangerous goods or the person who has organized dangerous activities because from these activities the dangerous for the determined environment is caused and where the level of damage depends on the level of damage and not on the level of guilt of owner, possessor, etc, of dangerous goods. From this fact we could say that in this type of responsibility, responsibility is individualized even though he is not responsible according to guilt, thus responsibility is without guilt. But for this the determined subject is responsible because he is responsible for caused damage that derives from these goods or activities.

These and other dangerous activities that danger and that will danger human and his wealth and the society in general require that law foresees solutions and determined responsibilities. For all of this legislators of different countries have foreseen special laws as civil codes, disposals from laws on obligations, judicial doctrine, court practice: in our law and at the comparative law as well.

Therefore for these and for other reasons, this paper deals with objective responsibility for causing damage and we could say that rules regarding the basis of this delinquent civil responsibility should be farmed and analyzed with special attention. This especially when our society has still not reached the level of development to secure all citizens from eventual damages which could be caused from dangerous goods and activities.

References:

- Dauti, N. (2008). E Drejta e Detyrimeve, Pjesa e Përgjithshme: Prishtinë.
- Tutulani-Semini, M. (2006). E drejta e detyrimeve dhe e kontratave, Pjesa e përgjithshme: Real- Stamp, Tiranë.
- Tutulani-Semini, M. (2001). Shkaktimi i dëmit dhe Kontrata, Njohuri për Ligjin: Horizont, Tiranë.
- Gjata, Rr. (2010). Detyrimet Jashtëkontraktore: "Muza", Tiranë.
- Smaka, R. (2008). E Drejta Biznesore: Universiteti Mbretëror Iliria, Prishtinë.
- Legier, G. (2008). E drejta civile-Detyrimet: Papirus, Tirane.
- Alishani, A. (1985). E drejta e Detyrimeve, Pjesa e Përgjithshme: ETMM, Prishtinë.
- Aliu, A. (2004). E Drejta Sendore-Pronësia, Prishtinë.

Morina, S. (2014). Baza e përgjegjësive deliktore civile të shkaktimi i dëmit: Vizione, Revistë studimore shkencore, Nr.22(1) 2014, Shkup.

Milosevic, Lj. (1977). E Drejta e Detyrimeve, Pjesa e Përgjithshme: Prishtinë.

Ligji për Marrëdhëniet e Detyrimeve të Kosovës, Gazeta Zyrtare e Republikës së Kosovës, 2012.

Kodi Civil i Republikës së Shqipërisë, 1994, Fletorja Zyrtare e Republikës së Shqipërisë.